

This letter discusses the new provisions of P.A. 92-0779 with regard to sales of building materials for incorporation into real estate located in Illinois enterprise zones. See 35 ILCS 120/5k. (This is a GIL.)

February 4, 2003

Dear Xxxxx:

This letter is in response to your to the Department dated October 18, 2002. The nature of your letter and the information you have provided require that we respond with a General Information Letter, which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120 subsections (b) and (c), which can be found at <http://www.revenue.state.il.us/Laws/regs/part1200/>.

In your letter, you have stated and made inquiry as follows:

AAA is currently constructing a Cinema in XXX County Illinois city of XXX. This new construction is taking place in a County Enterprise Zone. We respectfully request a letter ruling regarding state, municipal and home rule sales tax exemptions. Please send letter to my attention at the address noted in the header.

The law governing the enterprise zone building materials exemption from sales tax has undergone some changes within the last year. Effective August 6, 2002, P. A. 92-0779 made changes to 35 ILCS 120/5k that sets forth the exemption.

Under the new legislation the exemption now applies to "qualified sales" of building materials. A "qualified sale" is a sale of building materials that will be incorporated into real estate as part of a project for which a Certificate of Eligibility for Sales Tax Exemption has been issued. As long as the following documentation is provided, purchases can be made tax-free at any location. The administrator of the enterprise zone in which the building project is located must issue the Certificate of Eligibility for Sales Tax Exemption. To document the exemption, the purchaser must provide the retailer with a Certificate of Eligibility for Sales Tax Exemption which contains:

- 1) a statement that the building project identified in the Certificate meets all the requirements for the building material exemption contained in the enterprise zone ordinance of the jurisdiction in which the building project is located,
- 2) the location or address of the building project, and
- 3) the signature of the administrator of the enterprise zone in which the building project is located.

The purchaser must also provide the retailer with a certification that contains:

- 1) a statement that the building materials are being purchased for incorporation into real estate located in an Illinois enterprise zone,
- 2) the location or address of the real estate into which the building materials will be incorporated,
- 3) the name of the enterprise zone in which that real estate is located,
- 4) a description of the building materials being purchased, and
- 5) the purchaser's signature and date of purchase.

The new law also provides that the municipalities or counties that created the enterprise zone into which the building materials will be incorporated may neither require nor prohibit the purchase of building materials from any retailer or class of retailers in order to qualify for the exemption.

I hope this information is helpful. The Department of Revenue maintains a Web site, which can be accessed at www.revenue.state.il.us. If you have further questions related to the Illinois sales tax laws, please contact the Department's Taxpayer Information Division at (217) 782-3336.

If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of Section 1200.110(b).

Very truly yours,

Martha P. Mote
Associate Counsel

MPM:msk